

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Šerial No.: 10/537,586 Docket No.: MOL0673/IR7669

Applicant: de Nora et al Examiner: TBD

Filing date: 6/6/2005 Int'l App.: PCT/IB04/00431

PETITION UNDER 37 CFR 1.182 OR 1.183

In response to the Notice of Abandonment dated November 1, 2010 under 37 CFR 1.53(f) or (g) (hereinafter referred to as "Notice"), Applicants hereby petition under 37 CFR 1.182 or 1.183 for a holding that the Notice was void *ab-initio* as being based on a defective Notification of Missing Requirements dated March 4, 2008 (hereinafter "Notification") which itself was void *ab-initio*. The fee required for such a petition of \$400 under 37 CFR 1.17(f) is included herewith as a check.

The Notification is based on a determination that the Applicants (it is noted that the PTO has Nguyen as the first named inventor when in fact de Nora is the first named inventor) did not submit an Oath or Declaration by the inventors. The Notice is further based on the fact that the Applicants did not respond to the Notification. If the Notification is determined to be defective and hence void *ab-initio* so would the Notice be defective and void *ab-initio* and the application can then proceed to examination.

Under 1.183 Applicants must show that the situation is "extraordinary". An incorrect determination by the USPTO resulting in abandonment surely qualifies as extraordinary. Here as seen from the USPTO "Public Pair", Applicants did in fact file the Request which contained the Declaration signed by all 3 inventors (filed as "Documents submitted with 371 applications", copy attached). A copy of the Postcard mailed to the USPTO shows the same (attached). The Transmittal Letter (copy attached) received per "Public Pair" reflects the same (both the attachment of a Declaration and the inclusion of a postcard). Thus, it can be concluded that the Applicants did in fact file an appropriate Declaration along with the other documents which are acknowledged by the USPTO. Therefore, the determination in the Notification was defective and hence it was void *ab-initio*. If so, there was nothing for the Applicants to respond to and hence the

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Notice is also void *ab-initio*. The contrary holding of abandonment is clearly extraordinary.

Clearly, given the facts above, "justice requires" waiver of the rules at issue here. Therefore, Applicants respectfully petition the USPTO to withdraw the Notice and pass the application to examination.

Respectfully submitted

Jayadeep R Deshmukh

Reg. No. 34,507

458 Cherry Hill Road Princeton, NJ 08540

Tel No.: 6098651856



United States Patent and Trademark Office

UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address: COMMISSIONER FOR PATENTS P.O. Box 1450 Alexandria, Virginia 22313-1450 www.uspto.gov

APPLICATION NUMBER

J Deshmukh

458 Cherry Hill Rd

FILING OR 371(C) DATE

FIRST NAMED APPLICANT

ATTY, DOCKET NO./TITLE

10/537,586

Princeton, NJ 08540-7616

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Thinh T Nguyen

MOL0673

CONFIRMATION NO. 3564

ABANDONMENT/TERMINATION

LETTER

Date Mailed: 11/01/2010

NOTICE OF ABANDONMENT UNDER 37 CFR 1.53 (f) OR (g)

The above-identified application is abandoned for failure to timely or properly reply to the Notice to File Missing Parts (Notice) mailed on 03/04/2008.

If a complete reply to the notice was previously filed by applicant within the time period set forth in the notice, applicant may request for reconsideration of the holding of abandonment within 2 months from the mailing of this notice of abandonment by filing a petition to withdraw the holding of abandonment under 37 CFR 1.181(a). No petition fee is required. The petition must be accompanied by a true copy of the originally filed reply and the item(s) identified in one of the following:

- 1. A properly itemized date-stamped postcard receipt (see MPEP § 503);
- 2. If the originally filed reply included a certificate of mailing or transmission in compliance with 37 CFR 1.8(a), a copy of the certificate of mailing or transmission and a statement in compliance with 37 CFR 1.8(b) (see MPEP § 512); or
- 3. If the reply was filed via "Express Mail," a submission satisfying the requirements of 37 CFR 1.10(e) including, for example, a copy of the "Express Mail" mailing label showing the "date-in" (see MPEP § 513).

Any petition to withdraw the holding of abandonment should be directed to OPAP.

If applicant did not previously file a complete reply within the time period set forth in the notice, applicant may file a petition to revive the application under 37 CFR 1.137.

Under 37 CFR 1.137(a), a petition requesting the application be revived on the grounds of **UNAVOIDABLE DELAY** must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied by: (1) an adequate showing of the cause of unavoidable delay; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(I); and (4) a terminal disclaimer if required by 37 CFR 1.137(d). See MPEP § 711.03(c) and Form PTO/SB/61.

Under 37 CFR 1.137(b), a petition requesting the application be revived on the grounds of **UNINTENTIONAL DELAY** must be filed promptly after applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37 CFR 1.137(d). See MPEP § 711.03(c) and Form PTO/SB/64.

page 1 of 2

Any questions concerning petitions to revive should be directed to the "Office of Petitions" at (571) 272-3282.

A copy of this notice <u>MUST</u> be returned with the reply.

/ddwilliams/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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Original (for SUBMISSION)

)	For receiving Office use only	
)-1	International Application No.	
)-2	International Filing Date	
-3	Name of receiving Office and "PCT International Application"	
	In a particular particular	
)-4	Form - PCT/RO/101 PCT Request	
)-4-1	Prepared Using	PCT-SAFE [RASY mode] Version 3.50 (Build 0002.150)
)-5	Petition	
	The undersigned requests that the present international application be processed according to the Patent Cooperation Treaty	·
0-6	Receiving Office (specified by the applicant)	International Bureau of the World Intellectual Property Organization (RO/IB)
0-7	Applicant's or agent's file reference	MOL0673-PCT
i	Title of Invention	ALUMINIUM ELECTROWINNING CELLS WITH METAL-BASED ANODES
ii .	Applicant .	
II-1	This person is:	applicant only
11-2	Applicant for	all designated States except US
11-4	Name:	MOLTECH INVENT S.A.
11-5	Address:	6, rue Adolphe Fischer 1520 LUXEMBOURG Luxembourg
II-6	State of nationality	LU
11-7	State of residence	LU
[]]-1	Applicant and/or inventor	
111-1-1	This person is:	applicant and inventor
III-1-2	Applicant for	US only
III-1-4	Name (LAST, First)	DE NORA, Vittoria
III-1-5	Address:	Sandrigham House none NASSAU Bahamas
III-1-6	State of nationality	IT
111-1-7	State of residence	
• •	1	BS

Original (for SUBMISSION)

	To the second se			
III-2	Applicant and/or inventor			
III-2-1	This person is:	applicant and inventor		
111-2-2	Applicant for	US only		
111-2-4	Name (LAST, First)	NGUYEN, Thinh T.		
111-2-5	Address:	Rte du Grand-Lancy 165b		
		1213 ONEX		
		Switzerland		
111-2-6	State of nationality	CR		
111-2-7	State of residence	СН		
111-3	Applicant and/or inventor			
111-3-1	This person is:	applicant and inventor		
III-3-2	Applicant for	US only		
III-3-4	Name (LAST, First)	DURUZ, Jean-Jacques		
III-3-5	Address:	1		
		Rue de Hesse 4 1204 GENEVA		
		Switzerland		
111-3-6	State of nationality			
III-3-7	State of residence	CH		
		CH		
IV-1	Agent or common representative; or address for correspondence			
	The person identified below is hereby/ has been appointed to act on behalf of the applicant(s) before the competent international Authorities as:	agent		
IV-1-1	Name (LAST, First)	CRONIN, Brian		
IV-1-2	Address:	c/o MOLTECH S.A.		
		Quai du Mont-Blanc 21 1201 GENEVA		
D	L	Switzerland		
IV-1-3	Telephone No.	+41 22 593 88 88		
IV-1-4	Facsimile No.	41 22 593 88 99		
IV-1-5	e-mail	ip@moltech.ch		
IV-1-6	Agent's registration No.	21880		
V	DESIGNATIONS			
V-1	The filing of this request constitutes			
	under Rule 4.9(a), the designation of all Contracting States bound by the			
	PCT on the international filing date,			
	for the grant of every kind of			
	protection available and, where applicable, for the grant of both			
	regional and national patents.			

Original (for SUBMISSION)

VI-1	Priority claim of earlier international application				
VI-1-1	Filing date	20 February 2003 (20.02.2003)			
VI-1 <i>-</i> 2	Number	PCT/IB03/00662			
VI-1-3	PCT receiving Office	IB			
VI-2	Priority document request				
	The receiving Office is requested to prepare and transmit to the International Bureau a certified copy of the earlier application(s) identified above as item(s):	VI-1			
VII-1	International Searching Authority Chosen	European Patent Office (EPO) (ISA/EP)			
VIII	Declarations	Number of declarations			
VIII-1	Declaration as to the Identity of the inventor	-			
VIII-2	Declaration as to the applicant's entitlement, as at the international filing date, to apply for and be granted a patent	-			
VIII-3	Declaration as to the applicant's entitlement, as at the international filing date, to claim the priority of the earlier application	-			
VIII-4	Declaration of inventorship (only for the purposes of the designation of the United States of America)	1			
VIII-5	Declaration as to non-prejudicial disclosures or exceptions to lack of novelty	-			

VIII-4-1 Declaration: Inventorship (only for the purposes of the designation of the United States of America)
Declaration of Inventorship (Rules 4.17(iv) and 51bis.1(a)(iv)) for the purposes of the designation of the United States of America:

I hereby declare that I believe I am the original, first and sole (if only one inventor is listed below) or joint (if more than one inventor is listed below) inventor of the subject matter which is claimed and for which a patent is sought.

This declaration is directed to the international application of which it forms a part (if filing declaration with application).

I hereby declare that my residence, mailing address, and citizenship are as stated next to my name.

I hereby state that I have reviewed and understand the contents of the aboveidentified international application, including the claims of said application. I have identified in the request of said application, in compliance with PCT Rule 4.10, any claim to foreign priority, and I have identified below, under the heading "Prior Applications", by application number, country or Member of the World Trade Organization, day, month, and year of filing, any application for a patent or inventor's certificate filed in a country other than the United States of America, including any PCT international application designating at least one country other than the United States of America, having a filing date before that of the application on which foreign priority is claimed.

VIII-

Prior applications:

4-1-1

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(1

I hereby acknowledge the duty to disclose information that is known by me to be material to patentability as defined by 37 C.F.R. § 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the PCT international filing date of the continuation-in-part application. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

VIII- 4-1-1-1	Name (LAST, First)
VIII-	Residence:
4-1-1-2	(city and either US State, if applicable, or country)
VIII-	Mailing address:
4-1-1-3	
VIII-	Citizenship:
4-1-1-4	
VIII-	Inventor's Signature:
4-1-1-5	(if not contained in the request, or if
	declaration is corrected or added under
	Rule 26ter after the filing of the
	international application. The signature
	must be that of the inventor, not that of
	the agent)
VIII-	Date:
4-1-1-6	(of signature which is not contained in
	the request, or of the declaration that is
	corrected or added under Rule 26ter
	after the filing of the international
	application)

DE NORA, Vittoria

NASSAU, Bahamas

Sandrigham House none NASSAU Bahamas NASSAU Bahamas

IT

16-02-04

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PCT RI	EQUEST	Original (for SUBARISSION)	
VIII- 4-1-2-1	Name (LAST, First)	NGUYEN, Thinh T.	
	Residence: (aby and either US State, if applicable, or country)	ONEK, Switnerland	
VIII 41-2-3	Mailing address:	Rte dn Grand-Lancy 165b CH-1 Switzerland ONEK Switzerland	113 CHEK
VUI- 4-1-2-4	Cilizenships	CE .	>
VIII- 4-1-2-5	Inventor's Signature: (if not contained in the request, or if declaration is comediad or added under Pale 25ter site the little of the international epplication. The algosium must be that of the inventor, not that of the openty	18/02/2004	·
VIII- 4-1-2-6	Date (of signature which is not contained in the request, or of the declaration that is corrected or edded under Rule 20ter other the Sling of the International application)	18/02/2007	
VIII- 4-1-3-1	Namo (LAST, First)	DURUS, Jean-Jacques	
VIII- 41-3-2	Residence: (dity and either US State, if applicable, or country)	GENEVA, Switzerland	
VIII- 4-1-3-3	Mailing address:	Rue de Hesse 4 CH-1204 GENEV Switzerland GENEVA Switzerland	
VII- 4-1-3-4	Citizenship:	CR	
VIII- 4-1-3-6	declaration is connected or added under Pulo 28ter after the filing of the International application. The signature must be that of the inventor, not that of the agent)	Watter.	
VIII- 4-1-3-6	Date (of signature whigh is not contained in the request, or of the declaration that is corrected or edded under Ruse 28ter etter the filing of the international application)		

Original (for SUBMISSION)

IX	Check list	number of sheets	electronic file(s) attached
IX-1	Request (including declaration sheets)	10	-
IX-2	Description	25	
X-3	Claims	5	-
IX-4	Abstract	1	/
X-5	Drawings	3	
IX-7	TOTAL	44	
	Accompanying Items	paper document(s) attached	electronic file(s) attached
IX-8	Fee calculation sheet	1	-
IX-11	Copy of general power of attorney	reference no. 94/0004	-
IX-11	Copy of general power of attorney	reference no. 94/0026	-
IX-11	Copy of general power of attorney	reference no. 00/0350	-
IX-11	Copy of general power of attorney	reference no. 95/0067	-
IX-17	PCT-SAFE physical media	-	1
IX-19	Figure of the drawings which should accompany the abstract	1	
1X-20	Language of filing of the internationa application	English	·
X-1	Signature of applicant, agent or common representative	pauli	
X-1-1	Name:	CRONIN, Brian	
X-1-2	Name of signatory		•
X-1-3	Capacity		

For: Aluminium electronium.

Inveda Non etal.

Ser No = TBD - US National

Stage of MOL0673

Encl: Transmital letters

prelim ama : PCT

Reguest including declaration

by inventors

D de: 6/6/05

MOLOG73

Approved for use through 3/31/2007. OMB 0851-0021
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL LETTER TO THE UNITED STATES	ATTORNEY'S DOCKET NUMBER MOLOG 73				
DESIGNATED/ELECTED OFFICE (DO/EO/US) CONCERNING A SUBMISSION UNDER 35 U.S.C. 371	U.S. APPLICATION NO. (If known, see 37 CFR 1.5)				
INTERNATIONAL APPLICATION NO. INTERNATIONAL FILING DATE	PRIORITY DATE CLAIMED				
PCT/IB2004/000431 2/18/04	2/20/03				
TITLE OF INVENTION Aluminium electroniuming cell	s with unctal-based anode				
APPLICANT(S) FOR DO/EO/US Se No ra, Nauyen, Duruz					
Applicant herewith submits to the United States Designated/Elected Office (DO/EC	D/US) the following items and other information:				
1. This is a FIRST submission of items concerning a submission under 35 U.S.C. 371	1.				
2. This is a SECOND or SUBSEQUENT submission of items concerning a submission	n under 35 U.S.C. 371.				
3. This is an express request to begin national examination procedures (35 U.S.C. 37 (5), (6), (9) and (21) indicated below.	(1(f)). The submission must include items				
4. The US has been elected (Article 31).					
5. A copy of the International Application as filed (35 U.S.C. 371(c)(2))					
a. is attached hereto (required only if not communicated by the Internation	nal Bureau).				
b. as been communicated by the International Bureau.					
c. is not required, as the application was filed in the United States Receiv	ring Office (RO/US).				
6. An English language translation of the International Application as filed (35 U.S.0	C. 371(c)(2)).				
a. is attached hereto.					
b. has been previously submitted under 35 U.S.C. 154(d)(4).					
7. Amendments to the claims of the International Application under PCT Article 19	(35 U.S.C. 371(c)(3))				
a. are attached hereto (required only if not communicated by the Interna	ational Bureau).				
b. have been communicated by the International Bureau.					
c. have not been made; however, the time limit for making such amendr	ments has NOT expired.				
d. Light have not been made and will not be made.					
8. An English language translation of the amendments to the claims under PCT Ar	rticle 19 (35 U.S.C. 371(c)(3)).				
9. An oath or declaration of the inventor(s) (35 U.S.C. 371(c)(4)).					
10. An English language translation of the annexes of the International Preliminary 8 Article 36 (35 U.S.C. 371(c)(5)).	Examination Report under PCT				
Items 11 to 20 below concern document(s) or information included:					
11. An Information Disclosure Statement under 37 CFR 1.97 and 1.98.					
12. An assignment document for recording. A separate cover sheet in compliance w	vith 37 CFR 3.28 and 3.31 is included.				
13. A preliminary amendment.					
14. An Application Data Sheet under 37 CFR 1.76.					
15. A substitute specification.					
16. A power of attorney and/or change of address letter.					
17. A computer-readable form of the sequence listing in accordance with PCT Rule	13ter.2 and 37 CFR 1.821- 1.825.				
18. A second copy of the published International Application under 35 U.S.C. 154(d	0)(4).				
19. A second copy of the English language translation of the international application	on under 35 U.S.C. 154(d)(4).				
20. Other items or information: postcard					

This collection of information is required by 37 CFR 1.414 and 1.491-1.492. The information is required to obtain or retain a benefit by the public, which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 15 minutes to complete including gathering information, preparing, and submitting the completed form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

PTO-1390 (Rev. 02-2005)
Approved for use through 3/31/2007. OMB 0651-0021
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

U.S. APPLICATION NO. (if known, see 37 CFR 1.5) INTERNATIONAL APPLICATION NO.		ATTORNEY'S DOCKET NUMBER						
PCT/IB2004/000431			MOL0673					
The following fees have been submitted					LCULATIONS	PTO USE ONLY		
21. Sasic national fee \$300				\$	300			
22.				\$	200			
23. Search fee Search fee (37 CFR 1.445(a)(2)) has been paid on the international application to the USPTO as an International Searching Authority				 \$	400			
All other situation		-		\$500		900		
Additional fe sequence lis	sting or computer (and drawings filed program listing filed	in paper over 100 sheets (ex I in an electronic medium). Daper or fraction thereof.	cluding		,		
Total Sheets	Extra Sheets	Number of each	additional 50 or fraction to a whole number)	RATE			,	
- 100 =	/50 =			× \$250	\$			
	30.00 for furnishing late (37 CFR 1.49		ation later than 30 months fro	om the earliest	\$			
CLAIMS	NUMB	BER FILED	NUMBER EXTRA	RATE	\$			
Total claims		28 - 20 =	8	× \$ 50	\$	400		
Independent clai	ms	3 -3=	_	x \$200	\$	_		
MULTIPLE DEPI	ENDENT CLAIM(S	S) (if applicable)		+ \$360	\$			
			TOTAL OF ABOVE		\$	1300		
Applicant cla	aims small entity s	tatus. See 37 CFR	1.27. Fees above are reduc	ed by 1/2.				
				SUBTOTAL =	\$		<u></u>	
	of \$130.00 for furni date (37 CFR 1.49		anslation later than 30 mont	hs from the earliest +	\$			
			TOTAL	NATIONAL FEE =	\$ 1300			
	-	signment (37 CFR 1 CFR 3.28, 3.31). \$.21(h)). The assignment mu 40.00 per property	st be accompanied +	\$			
			TOTAL F	EES ENCLOSED =	\$ 1300			
			*****		Amount to be refunded:			
					Am	ount to be	\$	
a. A chec	ck in the amount o	f \$	to cover the abo	ve fees is enclosed.				
b. Please	e charge my Depo	sit Account No. 50 sheet is enclosed.	0-0912 in the amount of	1300 to a	over th	ne above fees.		
c. The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit								
Account No A duplicate copy of this sheet is enclosed. d. Fees are to be charged to a credit card. WARNING: Information on this form may become public. Credit card information should not								
	•		ard information and authoriza		e (37 (CFR 1,137(a) or (b))	must be filed	
			on to pending status.		• • •			
SEND ALL CORRESPONDENCE TO:				~~				
J. Deshmukh 458 Cherry Hill Rd. Princeton, NJ 08540-7616 SIGNATURE SIGNATURE Tayadeet R Desh muk					eshmukh			
	3 4 REGISTRAT					507 ON NUMBER		
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